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Attorney for the State of Alaska

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

DISABILITY LAW CENTER OF)
ALASKA, NATIVE PEOPLES ACTION)
COMMUNITY FUND, ALASKA)
PUBLIC INTEREST RESEARCH)
GROUP, ALEIJA STOVER, AND)
CAMILLE ROSE NELSON,)

Plaintiffs,)

v.)

KEVIN MEYER, LIEUTENANT)
GOVERNOR OF ALASKA, and the)
STATE OF ALASKA, DIVISION OF)
ELECTIONS,)

Defendants.)

Case No. 3:20-cv-00173-JMK

**DECLARATION OF
GAIL FENUMIAI**

I, Gail Fenumiai, declare under penalty of perjury that the following is true and correct:

1. I am the director of the Division of Elections for the State of Alaska, and I

have personal knowledge of the matters in this declaration. I was first appointed as director in January 2008 and had worked in the division for approximately 10 years before my appointment. I ended my first tenure as director in July 2015 and then was reappointed by Lieutenant Governor Kevin Meyer in January 2019.

2. The Division of Elections is working hard to make this election run smoothly, but the COVID-19 pandemic has created many new challenges. The Division must arrange for social distancing, masks, gloves, and sanitizing in over 440 polling places around the state; recruit election workers to staff those polling places in a year when far fewer people are willing to serve in this role; create new distanced training to avoid unnecessary exposure for smaller communities and Division employees; and process an unprecedented number of absentee ballot applications. This is all while adjusting our own internal workplace protocols to protect the safety of Division employees and poll workers.

3. Alaska is fairly unique among the states when it comes to voter registration because of an initiative passed by the voters in 2016. The initiative law automatically registers every eligible Alaskan that applies for a permanent fund dividend to vote. *See* <https://pfd.alaska.gov/Automatic-Voter-Registration>. Since the law was passed, 78,225 Alaskans have been registered to vote by applying for the permanent fund dividend.

4. The State of Alaska also provides numerous ways for eligible Alaskans to vote, starting with the State's no excuse absentee ballot system. Any registered voter can vote absentee by submitting an application starting January 1 of the year in which the election will be held. Voters can submit absentee ballot applications in person, by mail,

fax, or via electronic transmission or through a new online portal on the Division's website. They can request that their absentee ballot be mailed to them or delivered to them by electronic transmission. But all absentee ballots must be returned to the Division by mail. The absentee ballot must be postmarked on or by election day, but the Division strongly encourages submission of the ballot before election day to ensure receipt of the ballot within the required 10-day period following the election.

5. Paper absentee ballot application forms can be obtained by calling the Division, emailing the Division, or picking one up from a regional office or other location where they are available. The Division's regional offices send election packets with voter registration forms and absentee ballot application forms to over many locations around the State so they are widely available. These locations include tribal offices, assisted living homes, high schools, municipalities, and libraries.

6. In addition, absentee ballot applications are routinely distributed to voters by the political parties, candidates, and other interest groups.

7. In addition to the historic outreach efforts mentioned in Paragraph 5, this year the Lieutenant Governor decided to also send absentee ballot applications to all registered voters 65 and older in light of the pandemic. Moreover, I have directed letters with absentee ballot applications and a link to the online form be sent to voters in areas that may struggle to have access to a polling place on polling day for various reasons, including a lack of available poll workers. Although I am still hopeful to have all precincts staffed with three poll workers, I want voters in those areas to be aware of the potential lack of polling place and have information on other methods of voting.

8. For the first time this year, voters can also apply for absentee ballots online if they have a valid state driver's license or state identification card. Approximately 95 percent of registered voters have one of these types of identification associated with their voter record. There is a link on the Division of Election's home page (<https://www.elections.alaska.gov/>) as well as on the State of Alaska's homepage (<http://www.alaska.gov/>). This system saves voters' time by eliminating the need to print, sign and mail the application and online applications can be processed faster by the Division.

9. Processing absentee ballot applications that are received by mail takes significantly more time both because of the transit time in the mail and because of the added processing time. For each mailed application, an employee has to open the envelope, date stamp the application, check that the application is complete, attempt to decipher what is sometimes illegible handwriting, batch and scan them for processing before sending out the ballots. If the application is incomplete or illegible, a Division employee attempts to contact the individual to assist in completing the application. This may sound like it does not take much time but multiply that by 30,000 or more and you get significant processing times. On the other hand, all of this processing time is eliminated if the voter applies online.

10. A voter can also request an absentee ballot by electronic transmission or fax, meaning the ballot package will be sent to them by email. The ballot has to be printed out and mailed or faxed back to the Division on or by election day. This type of ballot transmission can be requested starting 15 days before election day and up to 5 p.m.

the day before the election.

11. There are currently 140 in-person absentee voting locations across the State where a voter can vote one-on-one with an absentee voting official starting 15 days before the election and up to election day. An absentee in-person voter's ballot is placed in an absentee ballot envelope completed by the voter, and that envelope is reviewed by the absentee review board to determine the voter's eligibility to vote before the ballot is counted.

12. The State also has eight early voting sites open starting 15 days before the election and up to the day before the election. Early voters' eligibility to vote is determined at the time they vote. These sites have ballots for all 40 house districts.

13. Of course, we also plan on having 441 polling places open on election day to vote in person from 7 a.m. to 8 p.m. Unlike other states that have drastically cut down on the number of polling places available this year, we are striving to have a similar number of polling places available to ensure every voter can vote in the manner they are comfortable with. In-person voting is also available on election day at the Juneau, Fairbanks, and Anchorage airports.

14. For those voters who reside in remote areas of the state where distance, terrain or other natural conditions deny the voter reasonable access to a polling place or who have a disability that makes it difficult for them to vote in person, the State designates these voters as "permanent absentee voters." This means that, in even-numbered years, they are mailed an absentee by-mail application. There are over 9,500 permanent absentee voters. Unless a voter notifies the Division of Elections has no way

to know which voters are disabled.

15. For those with a disability, there is a process to receive assistance with voting in addition to the permanent absentee voting option. The voter can have a representative request a special needs ballot starting 15 days before the election and up to election day. The representative then delivers the ballot to the voter, witnesses the voter's signature, and returns the ballot to the Division of Elections. This allows the voter to cast their vote at home.

16. As shown above, the State of Alaska offers a myriad of ways for eligible Alaskans to exercise their right to vote. To send out paper absentee ballot application forms to every registered voter would potentially result in major processing delays as the Division balances putting on an in-person election, offering early voting, and offering in-person absentee voting. The online application is far superior to the mailed application in terms of processing times and ensuring voters get absentee ballots in a timely manner. My goal is to ensure every voter can exercise the right to vote in the way that works best for them and to have every vote counted. Mailing out absentee ballot applications to everyone would upset that balance and potentially result in avoidable and preventable issues in the election.

17. The Division has hired additional staff to process the anticipated increase in absentee ballot applications this year, but it cannot rapidly expand its processing capacity while maintaining the integrity of the election. Recruiting and training qualified staff takes weeks—not days—and staff cannot work from home because they must be able to access the Division's secure voter database. This means that increasing the number of

staff also requires finding more temporary space so that workers can maintain proper social distance in the workplace.

18. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 3rd, 2020.

/s/ Gail Fenumiai
Gail Fenumiai
Director
State of Alaska
Division of Elections

CERTIFICATE OF SERVICE

I certify that on August 3rd, 2020, the foregoing document was served on all parties via the CM/ECF filing system.

/s/ Margaret Paton-Walsh
Margaret Paton-Walsh
Assistant Attorney General